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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,301

04/09/2004

James J. Leskiewicz

J-3924

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EXAMINER

DOUYON, LORNA M

ART UNIT

PAPER NUMBER

1751

MAIL DATE

DELIVERY MODE

04/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

6

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/822,301

Applicant(s)

LESKOWICZ ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

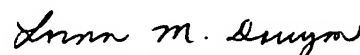
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-65.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Lorna M. Douyon
Primary Examiner
Art Unit 1751

Continuation of 11. does NOT place the application in condition for allowance because: of the same reasons set forth in the final rejection.

With respect to the anticipation rejection based upon Neumiller '681, Applicants argue that the examples set forth include compositions having a VOC content outside applicants' currently claimed amount and that the claimed compositions provide cleaning in the absence of alcohols (page 2, lines 17-18).

The Examiner respectfully disagrees with the above argument because the cited example in the rejection, i.e. Example 3 comprises 3.5000 wt% isopropyl alcohol which meets the claims' requirement of "less than about 4% by weight volatile organic compound (VOC) content". With respect to the argument regarding the claimed compositions which provide cleaning in the absence of alcohols, please note that there is no such requirement in the present claims. In fact, the present claims require cosolvents like isopropanol (or isopropyl alcohol) in claims 50-58.

With respect to the anticipation rejection based upon Michael, Applicants argue that Michael also does not contain any teaching as to the VOC content but rather is directed to specialized zwitterionic surfactants in a cleaning composition, and that the examples set forth in Michael also include compositions having a VOC content clearly above the claimed VOC content level. Applicants also argue that Michael requires the composition to have a pH of at least 9.5 (column 2, lines 24-25), whereas the claimed composition can have a pH of 2 or above (claims 23 and 24) or of 2 to 13 (claims 25 and 26).

The Examiner respectfully disagrees with the above arguments because the recited example in the rejection, which is Formula 6 (column 12, lines 29-45) comprises 3.0 wt% isopropanol which meets the present claims' "less than 4% by weight VOC content". The composition of Michael having a pH of at least 9.5, or a pH of 10.9 in Formula 6 in col. 13, line 21, meet the claims' pH of 2 or above, and the pH also lies inside the claimed range of 2 to 13.

With respect to the anticipation rejection based upon Svoboda, Applicants argue that there is no disclosure regarding VOC content in Svoboda.

The Examiner respectfully disagrees with the above argument because it is clear from Example 2 (column 7, lines 32-50) in Svoboda that the VOC content of the composition meets the requirement of the present claims.

With respect to the anticipation rejection based upon Cummings, Applicants argue that the examples set forth at page 13 of Cummings which include 7% isopropanol are in clear excess of Applicant's claimed VOC content.

The Examiner respectfully disagrees with the above argument because even though Examples U and W contain 7% isopropanol, these examples were not cited in the rejection, and what was cited was Example S having 2.0 wt% isopropyl alcohol which meets applicants' claims.

With respect to the rejections under 35 USC 103 over Neumiller '681 and Michael alone or in combination with Neumiller '921 or Svoboda, Applicants argue that none of the above references recognize the problem addressed by Applicants' claimed invention, much less teach or support the particular combination of components to provide a composition with a VOC content of less than 4% by weight.

The responses above apply here as well. In addition, the combination of references above are proper and are maintained in view of the same reasons in paragraphs 7-12 in the final rejection.